

**IN THE UNITED STATES DISTRICT FOR
THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**DUCKHEE LEE, IRENE LEE, and
ADRIAN LEE**, individually and on
behalf of the Estate of **JUNGSOON
LEE**

Plaintiffs

vs.

UNITED STATES OF AMERICA,

Defendant

No. 5:18-cv-00088-JKP

UNOPPOSED MOTION TO APPOINT A GUARDIAN AD LITEM

Plaintiffs request the Court appoint Mr. Scott M. Bage as guardian ad litem for Mr. Duckhee Lee, for the limited purpose of reviewing a settlement agreement affecting the resolution of his case and ensuring no conflict of interests exists.

BACKGROUND

This case arises out of a car wreck on October 6, 2016. In the wreck, Mr. Duckhee Lee suffered a traumatic brain injury. His wife, Jungsoon Lee, died. Their son, Adrian Lee, was appointed administrator of Ms. Lee's estate.

On May 24, 2017, the Plaintiffs notified the United States and formally presented their administrative claim as a prerequisite to filing suit. On January 26, 2018, Plaintiffs filed their lawsuit against the United States.

After over two years, the Parties to this lawsuit came to an amicable settlement. Because Mr. Lee suffered a traumatic brain injury and because, his adult children, Adrian and Irene Lee, are entitled to the proceeds of the settlement, Plaintiffs request that the Court appoint a guardian ad litem to protect the interest of Mr. Lee for the limited purpose of reviewing the settlement agreement and ensuring no conflict of interests exists.

ANALYSIS

Under Fed. R. Civ. P. 17(c), the Court may appoint a guardian ad litem in its discretion where the Court believes the appointment to be in the best interest of a disabled individual. *See also Scannavino v. Fla. Dep't of Corrections*, 242 F.R.D. 662, 666-67 (M.D. Fla. 2007). Here, both children are recovering parties. As a term of the settlement, the United States requires Plaintiff obtain court approval of the settlement. An independent guardian ad litem will help the Court determine whether the settlement is within the best interests of Mr. Lee.

Plaintiffs request the Court appoint Scott M. Bage, Scott M. Bage, P.C., 3510 N St Mary's St, Ste. 100, San Antonio, TX 78212 as an appropriate guardian ad litem for Mr. Duckhee Lee. Mr. Bage is a Texas Board Certified Personal Injury Trial Lawyer and a mediator. He has significant experience in handling these types of personal injury lawsuits, as well as mediating and resolving these lawsuits. Plaintiffs reached out to Mr. Bage. He will accept this appointment as guardian ad litem, should the court approve this motion. Plaintiffs have also conferred with the

United States, and it does not oppose the appointment of Mr. Bage for this limited purpose.

CONCLUSION

Plaintiffs request that the Court appoint Scott M. Bage as guardian ad litem to review the settlement in the above styled case and report to the Court on his review.

Respectfully Submitted,

/s/ Tom Jacob

JAMAL K. ALSAFFAR

jalsaffar@nationaltriallaw.com

Texas State Bar #24027193

TOM JACOB

tjacob@nationaltriallaw.com

Texas State Bar #24069981

WHITEHURST, HARKNESS,

BREES, CHENG, ALSAFFAR,

HIGGINBOTHAM, & JACOB PLLC

7500 Rialto Blvd, Bldg. Two, Ste 250

Austin, TX 78735

(512) 476-4346 (o)

(512) 467-4400 (f)

GUY CHOATE

gdchoate@webbstokessparks.com

Texas State Bar #04212410

WEBB, STOKES & SPARKS, L.L.P.

314 W Harris Ave

San Angelo, TX 76903-6339

(325) 718-2048 (o)

Attorneys for the Plaintiff

CERTIFICATE OF SERVICE

By my signature above, I certify that a copy of Unopposed Motion to Appoint a Guardian Ad Litem has been sent to the following on January 16, 2020 via the Court's CM/ECF notice system.

CLAYTON R. DIEDRICHS

Assistant U.S. Attorney
clayton.diedrichs@usdoj.gov

MATTHEW M. MUELLER

Assistant United States Attorney
matthew.mueller@usdoj.gov

U.S. ATTORNEY'S OFFICE

601 N.W. Loop 410, Suite 600
San Antonio, TX 78216-5597

Attorneys for Defendant